

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SARINA DABNEY

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mary Kramer; Murphy Law Group, LLC; 1628 John F.
Kennedy Blvd., Ste. 2000; 267-273-1054

DEFENDANTS

THOMAS JEFFERSON UNIVERSITY HOSPITAL

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input checked="" type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 12101, et seq. and 29 U.S.C. § 2601, et seq.Brief description of cause:
ADA discrimination and retaliation and FMLA retaliation

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

Jan 3, 2023

SIGNATURE OF ATTORNEY OF RECORD

/s/ Mary Kramer

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 2204 Yelland Street, Philadelphia, PA 19140
Address of Defendant: 111 S 11th Street, Philadelphia, PA 19107
Place of Accident, Incident or Transaction: 111 S 11th Street, Philadelphia, PA 19107

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 01/03/2023

Mary Kramer

Attorney-at-Law / Pro Se Plaintiff

324078

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|---|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input type="checkbox"/> | 6. Labor-Management Relations |
| <input checked="" type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |

(Please specify): _____

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): _____ |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability – Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Mary Kramer, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 01/03/2023

Mary Kramer

Attorney-at-Law / Pro Se Plaintiff

324078

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SARINA DABNEY
2204 Yelland Street
Philadelphia, PA 19140

Plaintiff,

v.

THOMAS JEFFERSON UNIVERSITY
HOSPITAL
111 S 11th Street
Philadelphia, PA 19107

Defendant.

CIVIL ACTION NO.: _____

JURY TRIAL DEMANDED

COMPLAINT – CIVIL ACTION

Plaintiff, Sarina Dabney (“Plaintiff”), by and through her undersigned attorney, for her Complaint against Thomas Jefferson University Hospital (“Defendant”), alleges as follows:

INTRODUCTION

1. Plaintiff initiates this action contending Defendant violated Plaintiff’s rights protected by the American with Disabilities Act (“ADA”), 42 U.S.C. § 12101, et seq., by terminating Plaintiff because of her disabilities, her past record of impairment, because Defendant regarded Plaintiff as being disabled, and in retaliation for requesting a reasonable accommodation in connection thereto, in violation of the ADA.¹

2. Plaintiff further brings this action to redress violations by Defendant of the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601, et seq., for unlawfully terminating Plaintiff’s

¹ Plaintiff intends to amend her Complaint to include a claim under the Philadelphia Fair Practices Ordinance (The “PFPO”), Phila. Code §§ 9-1101, et seq., once her claims have been administratively exhausted with the Philadelphia Commission on Human Relations, which will occur in July 2023. Plaintiff’s claims under the PFPO would mirror Plaintiff’s ADA claims discussed herein.

employment in retaliation for her attempt to exercise her right to protected medical leave under the FMLA.

PARTIES

3. Plaintiff Sarina Dabney is a citizen of the United States and Pennsylvania and currently maintains a residence at 2204 Yelland Street, Philadelphia, PA 19140.

4. Defendant Thomas Jefferson University Hospital is a nonprofit corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with a registered office address and principal place of business located at 111 S 11th Street, Philadelphia, PA 19107.

JURISDICTION AND VENUE

5. Paragraphs 1 through 4 are hereby incorporated by reference as though the same were fully set forth at length herein.

6. On or about July 28, 2022, Plaintiff filed a Charge of Discrimination with the United States Equal Employment Opportunity Commission (“EEOC”), which was dually filed with the Philadelphia Commission on Human Relations (“PCHR”), thereby satisfying the requirements of 42 U.S.C. § 2000e5(b) and (e). Plaintiff’s EEOC charge was docketed as EEOC Charge No. 530-2022-05849. Plaintiff’s EEOC charge was filed within one-hundred and eighty (180) days of the unlawful employment practice.

7. By correspondence dated November 14, 2022, Plaintiff received a Notice of Right to Sue from the EEOC regarding her Charge, advising her that she had ninety (90) days to file suit against Defendant.

8. Plaintiff filed the instant action within the statutory time frame applicable to her claims.

9. Plaintiff has therefore exhausted her administrative remedies and has complied with all conditions precedent to maintaining this action.

10. This action is authorized and initiated pursuant to the American with Disabilities Act (“ADA”), 42 U.S.C. § 12101, *et seq.*, and the Family and Medical Leave Act (“FMLA”), *et seq.*

11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343, as it is a civil rights action arising under the laws of the United States.

12. The venue in this district is proper pursuant to 28 U.S.C. § 1391(b), as the parties reside in this judicial district, doing business herein, and the unlawful practices of which Plaintiff is complaining were committed in this judicial district.

FACTUAL ALLEGATIONS

13. Paragraphs 1 through 12 are hereby incorporated by reference as though the same were fully set forth at length herein.

14. Plaintiff began her employment with Defendant on or about March 15, 2018, as a Medical Assistant.

15. Throughout her time with Defendant, Plaintiff performed her job well, receiving occasional praise, and no justifiable discipline.

16. By way of background, in or around 2019, Plaintiff went out on disability for Idiopathic Sleep Disorder and Post Traumatic Stress Disorder (“PTSD”).

17. As a result of her Idiopathic Sleep Disorder, Plaintiff was dealing with seizure-like symptoms due to exhaustion.

18. Notably, Plaintiff's PTSD and Idiopathic Sleep Disorder constitute disabilities within the meaning of the ADA and FMLA in that they substantially impair one or major life activities.

19. Plaintiff's aforementioned disability leave lasted six (6) months until she was able to get a better grasp on her disabilities.

20. Although Plaintiff's FMLA was exhausted in or around 2019, it renewed every year, and Defendant's 3rd party benefits coordinator, Lincoln Financial, approved nine (9) days of FMLA per month.

21. On or about May 10, 2021, Plaintiff received a letter detailing an investigation into one of her supervisor's actions.

22. Moreover, it had been brought to Plaintiff's attention that her supervisor had been openly discussing Plaintiff's health issues with her coworkers.

23. Specifically, Plaintiff's supervisor shared protected health information about Plaintiff's sleep disorder with her coworkers, thereby subjecting Plaintiff to ridicule.

24. Shortly after the investigation was completed, Plaintiff's supervisor was terminated from employment with Defendant.

25. Soon after, Kareemah Last Name Unknown ("Kareemah LNU"), took over Defendant's supervisor position.

26. Almost immediately, Kareemah LNU began questioning Plaintiff's FMLA leave.

27. Furthermore, Kareemah LNU began asking Plaintiff invasive questions, like how long was she going to have her FMLA leave, how often she intended to use it, and if she really needed it.

28. Plaintiff's coworkers shortly followed, particularly because they had their own questions after looking at Plaintiff's medical documents that her previous supervisor had shared with them.

29. Subsequently, Plaintiff reported the harassment to Defendant's Human Resources department.

30. Rather than investigate the aforementioned employees who were asking questions regarding Plaintiff's medical documents, Human Resources asked Plaintiff for the names of the coworkers that informed Plaintiff that her personal information was being discussed while she was on leave.

31. Ultimately, nothing resulted from this investigation, and, upon information and belief, an investigation may not have occurred.

32. In addition to her aforementioned comments, Kareemah LNU began writing Plaintiff up any time she was late.

33. By way of example, Plaintiff's first write up occurred in or around early November 2021, when Plaintiff showed up one (1) minute late due to her sleep disorder.

34. The write ups continued until on or about November 11, 2021, when Plaintiff took a medical leave of absence for her health.

35. Plaintiff returned to work in or around January 2022, and was approved for intermittent FMLA shortly thereafter.

36. Specifically, Plaintiff's FMLA was approved from on or about March 21, 2022, through on or about October 1, 2022.

37. As such, any time Plaintiff called out, her supervisors and Defendant's Human Resources would be immediately notified.

38. The aforementioned approval allowed Plaintiff to use her FMLA time as needed.

39. On or about April 25, 2022, following her shift, Plaintiff fell asleep and crashed her vehicle while driving home due to her sleep disorder.

40. As a result thereof, Plaintiff suffered a concussion, and called out of work for the following three (3) days.

41. Upon her return to work, on or about May 2, 2022, Kareemah LNU informed Plaintiff that she had been written up for calling out.

42. In response, Plaintiff assured Kareemah LNU that she had provided Defendant with all necessary doctor's notes, but Kareemah LNU insisted she had to be "held accountable" despite being in a car accident.

43. It is worth mentioning that Kareemah LNU had this conversation with Plaintiff in front of another nurse and/or coworker.

44. After filing a grievance with Defendant's Human Resources, Plaintiff was informed that being written up for using FMLA leave was not a normal policy within Defendant.

45. Furthermore, one of Defendant's Human Resources representatives suggested that Plaintiff request an ADA accommodation.

46. Immediately thereafter, Plaintiff provided all of the required documents to her doctor, and was given fifteen (15) days to return the completed paperwork.

47. On or about May 6, 2022, Plaintiff received an email from Kareemah LNU about her attendance.

48. While Kareemah LNU acknowledged that she previously told Plaintiff that her lateness and absences would be covered under her FMLA, Kareemah LNU stated that Defendant's Human Resources suggested they stay in her file.

49. In other words, despite Kareemah LNU having been apprised of Plaintiff's recent request for accommodation, she advised Plaintiff that her write ups were going to stay in her file following the aforementioned car accident.

50. After reading this email from Kareemah LNU, Plaintiff became very upset.

51. Thereafter, Plaintiff emailed Defendant's Human Resources, advising that she was feeling harassed by Kareemah LNU and that she felt suicidal.

52. Following Plaintiff's complaint to Defendant's Human Resources, Kareemah LNU tried to intervene, asking Plaintiff to come into her office so they could discuss her email.

53. Understandably, Plaintiff refused to go into Kareemah LNU's office.

54. Despite Plaintiff's refusal, Kareemah LNU insisted Plaintiff come into her office, grabbing Plaintiff by the shirt and trying to pull her in.

55. Plaintiff continued to refuse to meet with Kareemah LNU in her office.

56. Due to Plaintiff's refusal to meet with Kareemah LNU, the police were eventually called and Plaintiff was told to seek professional help due to what they interpreted to be a mental breakdown, that of which was directly caused by the mistreatment Plaintiff was subjected to by Kareemah LNU.

57. Subsequently, Plaintiff admitted herself into a hospital, and while there, Defendant's Human Resources department responded to her email and said they would do an investigation into Kareemah LNU's recent conduct and that she should not return to Defendant until the investigation was over.

58. As such, Plaintiff was suspended without pay during the investigation, and was encouraged by Defendant's Human Resources department to apply for short-term-disability.

59. Then, on or about May 18, 2022, Plaintiff was abruptly terminated from employment with Defendant.

60. The letter Plaintiff received from Defendant stated the investigation had been closed and she was being terminated for causing a "disruption."

61. Notably, prior to this letter, Defendant had never mentioned Plaintiff demonstrating any behavioral issues.

62. Moreover, the only write ups Plaintiff received were for being late because of her disabilities and for using her approved FMLA time.

63. It becomes evident that Defendant was classifying the mental trauma Plaintiff experienced, which resulted from the aforementioned mistreatment by its employees, as a "disruption."

64. It should be noted, mental trauma and resultant suicidal ideation are disabilities within the meaning of the ADA and FMLA in that they substantially impair one or more major life activities.

65. As such, Defendant refused to engage in the interactive process to determine a reasonable accommodation in connection to Plaintiff's disabilities, in violation of the ADA.

66. It is believed and therefore averred Defendant terminated Plaintiff's employment because of her actual and/or perceived disabilities, and in retaliation for her request for an accommodation in connection thereto, in violation of the ADA.

67. It is further believed and therefore averred that Defendant terminated Plaintiff's employment because she exercised her right to protected leave to seek and/or received treatment for her serious health condition, in violation of the FMLA.

68. As a result of Defendant's deliberate, willful, malicious, and unlawful actions, Plaintiff has suffered damages, including, but not limited to, loss of employment, promotion benefits, earnings and earnings potential, loss of potential benefits, and other economic damages, and has also suffered mental anguish, emotional pain and suffering, emotional distress, humiliation, and damage to reputation.

COUNT I
AMERICANS WITH DISABILITIES ACT
42 U.S.C. § 12101, et seq.
DISCRIMINATION AND RETALIATION

69. Paragraphs 1 through 68 are hereby incorporated by reference as though the same were fully set forth at length herein.

70. At all times relevant hereto, Plaintiff was an employee within the meaning of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, *et seq.*

71. Pursuant to the ADA, Plaintiff is a qualified individual with one or more disabilities.

72. Plaintiff's PTSD and Idiopathic Sleep Disorder substantially limited her ability to engage in several major life activities for an extended period of time.

73. Defendant was aware of Plaintiff's disabilities and/or regarded Plaintiff as being disabled.

74. Despite her disabilities, Plaintiff would have been able to perform the essential functions of her job, with or without a reasonable accommodation.

75. By reasons of the foregoing, Defendant, through its agents, officers, servants, and/or employees, has violated the ADA by failing to engage in the interactive process of determining reasonable accommodations for Plaintiff, and by terminating Plaintiff's employment because of her actual and/or perceived disabilities, because Defendant regarded Plaintiff as

disabled, and/or because of Plaintiff's request for reasonable accommodations in connection to her disabilities.

76. As a result of Defendant's deliberate, unlawful, and malicious actions as set forth above, Plaintiff has suffered loss of employment, earnings, raises, other significant economic benefits, emotional pain and suffering, emotional distress, and humiliation.

WHEREFORE, as a result of the unlawful conduct of Defendant, Plaintiff respectfully requests that this Court enter judgment in her favor and against Defendant, and grant her the maximum relief allowed by law, including, but not limited to:

- A. Back wages, front pay, and bonuses in an amount to be determined at trial, but not less than one hundred and fifty thousand dollars (\$150,000.00);
- B. Punitive, compensatory, and/or exemplary damages in an amount to be determined at trial, but sufficient to punish Defendant for its intentional, negligent, willful, wanton, and/or malicious conduct;
- C. Plaintiff's costs, disbursements, and attorney's fees incurred in prosecuting this matter;
- D. Pre-judgment interest in an appropriate amount;
- E. Such other and further relief as is just and equitable under the circumstances; and
- F. Any verdict in favor of Plaintiff is to be molded by the Court to maximize the financial recovery available to Plaintiff in light of the caps on certain damages set forth by applicable federal law.

COUNT II
FAMILY AND MEDICAL LEAVE ACT
29 U.S.C. § 2601, *ET SEQ.*
RETALIATION

77. Paragraphs 1 through 76 are hereby incorporated by reference as if the same were more fully set forth at length herein.

78. Defendant employed at least fifty (50) employees within the applicable seventy-five (75) mile radius for each working day in each of twenty (20) or more calendar days in the current or preceding year.

79. Plaintiff was an eligible employee under the FMLA and was thus entitled to twelve (12) weeks of unpaid leave and/or intermittent leave to seek treatment for her serious health condition.

80. Plaintiff provided adequate notice to Defendant of her need for medical leave by giving notice as soon as she became aware of the need for leave and as soon as was practicable, pursuant to 29 U.S.C. § 2612(e).

81. Defendant willfully violated the FMLA by terminating Plaintiff's employment in retaliation for Plaintiff exercising her right to protected FMLA-leave to care for her serious health condition.

82. The aforementioned actions of Defendant constitute retaliation under the FMLA.

83. As a result of Defendant's actions, Plaintiff has suffered loss of employment, earnings, raises, and other significant economic benefits.

WHEREFORE, as a result of the unlawful conduct of Defendant, Plaintiff respectfully requests that this Court enter judgment in his favor and against Defendant, and grant him the maximum relief allowed by law, including, but not limited to:

- A. Back wages, front pay, and bonuses in an amount to be determined at trial, but not less than one hundred and fifty thousand dollars (\$150,000.00);
- B. Liquidated damages;
- C. Plaintiff's costs, disbursements, and attorneys' fees incurred in prosecuting this action;
- D. Pre-judgment interest in an appropriate amount;
- E. Such other and further relief as is just and equitable under the circumstances; and
- F. Any verdict in favor of Plaintiff is to be molded by the Court to maximize the financial recovery available to Plaintiff in light of the caps on certain damages set forth by applicable law.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues so triable.

Respectfully submitted,

MURPHY LAW GROUP, LLC

By: /s/ Mary Kramer
Mary Kramer, Esq.
Eight Penn Center, Suite 2000
1628 John F. Kennedy Blvd.
Philadelphia, PA 19103
Phone: (267) 273-1054
Fax: (215) 525-0210
mkramer@phillyemploymentlawyer.com
Attorney for Plaintiff

Dated: January 3, 2023

DEMAND TO PRESERVE EVIDENCE

The Defendant is hereby demanded to preserve all physical and electronic information pertaining in any way to Plaintiff's employment, to her potential claims and her claims to damages, to any defenses to same, including, but not limited to electronic data storage, employment files, files, memos, job descriptions, text messages, e-mails, spreadsheets, images, cache memory, payroll records, paystubs, time records, timesheets, and any other information and/or data which may be relevant to any claim or defense in this litigation.